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the notice described in paragraph (d)(1) is given to the affected officer.

(4) If, within 30 days of the date of the notice, the officer has furnished the designated official affidavits or other documentation showing the information in the notice to be in error, the designated official shall consider the officer's response. The designated official may return to the authorized person, without action, the notice for a statutorily required support allotment together with the member's affidavit and other documentation, if the member submits substantial proof of error, such as:

(i) The support payments are not delinquent.

(ii) The underlying support order in the notice has been amended, superseded, or set aside.

(e) *Absence of funds.* (1) When notice is served and the identified officer is found not to be entitled to moneys due from or payable by NOAA, the designated official shall return the notice to the authorized person, and advise that no moneys are due from or payable by NOAA to the named individual.

(2) Where it appears that moneys are only temporarily exhausted or otherwise unavailable, the authorized person shall be fully advised as to why, and for how long, the money will be unavailable.

(3) In instances where the officer separates from active duty service, the authorized person shall be informed by the Office of Commissioned Personnel, NOAA Corps that the allotment is discontinued.

(4) Payment of statutorily required allotments shall be enforced over other voluntary deductions and allotments when the gross amount of pay and allowances is not sufficient to permit all authorized deductions and collections.

(f) *Allotment of funds.* (1) The authorized person or allottee shall notify the designated official promptly if the operative court order upon which the allotment is based is vacated, modified, or set aside. The designated official shall also be notified of any events affecting the allottee's eligibility to receive the allotment, such as the former spouse's remarriage, if a part of the payment is for spousal support, and notice of a change in eligibility for child

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support payments under circumstances of death, emancipation, adoption, or attainment of majority of a child whose support is provided through the allotment.

(2) An allotment established under this Directive shall be adjusted or discontinued upon notice from the authorized person.

(3) Neither the Department of Commerce nor any officer or employee thereof, shall be liable for any payment made from moneys due from, or payable by, the Department of Commerce to any individuals pursuant to notice regular on its face, if such payment is made in accordance with this subpart. If a designated official receives notice based on support which, on its face, appears to conform to the law of the jurisdiction from which it was issued, the designated official shall not be required to ascertain whether the authority that issued the order had obtained personal jurisdiction over the member.

(4) *Effective date of allotment.* The allotment shall start with the first pay period beginning after the officer has had a consultation with an attorney from the Office of the Assistant General Counsel for Administration but not later than the first pay period beginning after 30 days have elapsed since the notice required in paragraph (d)(1) of this section is given to the affected officer. The Department of Commerce shall not be required to vary its normal NOAA Corps allotment payment cycle to comply with the notice.

(g) *Designated official.* Notice should be sent to: The Assistant General Counsel for Administration, Office of the General Counsel, U.S. Department of Commerce, Washington, DC 20230, (202) 377-5387.

Subpart D—Statement of Policy and Procedures Regarding Indemnification of Department of Commerce Employees

SOURCE: 62 FR 19670, Apr. 23, 1997, unless otherwise noted.

§ 15.31 Policy.

(a) The Department of Commerce may indemnify a present or former Department employee who is personally named as a defendant in any civil suit in state or federal court, or other legal proceeding seeking damages against a present or former Department employee personally, for any verdict, judgment or other monetary award which is rendered against such employee, provided that the conduct giving rise to the verdict, judgment or award was taken within the scope of his/her employment and that such indemnification is in the interest of the Department as determined by the Secretary or his/her designee.

(b) The Department may settle or compromise a personal damage claim against a present or former employee by the payment of available funds at any time provided the alleged conduct giving rise to the personal property claim was taken within the employee's scope of employment and such settlement is in the interest of the Department as determined by the Secretary or his/her designee.

(c) Absent exceptional circumstances, as determined by the Secretary or his/her designee, the Department will not consider a request either to indemnify or to settle a personal damage claim before entry of an adverse verdict, judgment or award.

(d) Any payment under this section either to indemnify a present or former Department employee or to settle a personal damage claim shall be contingent upon the availability of appropriated funds of the Department of Commerce.

§ 15.32 Procedures for the handling of lawsuits against Department employees arising within the scope of their office or employment.

The following procedures shall be followed in the event that a civil action or proceeding is brought, in any court, against a present or former employee of the Department (or against his/her estate) for personal injury, loss of property or death, resulting from the Department employee's activities while acting within the scope of his/her office or employment:

(a) After being served with process or pleadings in such an action or proceeding, the employee (or the executor(rix) or administrator(rix)) of the estate shall within five (5) calendar days of receipt, deliver all such process and pleadings or an attested true copy thereof, together with a fully detailed report of the circumstances of the incident giving rise to the court action or proceeding to the General Counsel. Where appropriate, the General Counsel, or his/her designee, may request that the Department of Justice provide legal representation for the present or former Department employee.

(b)(1) Only if a present or former employee of the Department has satisfied the requirements of paragraph (a) of this section in a timely fashion, may the employee subsequently request indemnification to satisfy a verdict, judgment, or award entered against that employee.

(2) No request for indemnification will be considered unless the employee has submitted a written request, with appropriate documentation, including copies of the verdict, judgment, appeal bond, award, or settlement proposal through the employee's supervisory chain to the head of the employee's component. The written request will include an explanation by the employee of how the employee was working within the scope of employment and whether the employee has insurance or any other source of indemnification.

(3) The head of the component or his/her designee will forward the employee's request with a recommendation to the General Counsel for review. The request for indemnification shall include a detailed analysis of the basis for the recommendation. The head of the component will also certify to the General Counsel that the component has funds available to pay the indemnification.

(c) The General Counsel or his/her designee will review the circumstances of the incident giving rise to the action or proceeding, and all data bearing upon the question of whether the employee was acting within the scope of his/her employment. Where appropriate, the agency shall seek the views of the Department of Justice and/or the